



THE COMMONWEALTH OF MASSACHUSETTS

WATER RESOURCES COMMISSION

100 Cambridge Street, Boston MA 02114

Meeting Minutes for January 9, 2003

Members in Attendance:

Peter Webber	Commissioner, DEM
Marilyn Contreas	Designee, DHCD
Glenn Haas	Designee, DEP
Gerard Kennedy	Designee, DFA
Mark Tisa	Designee, DFWELE
Richard Butler	Public Member
Gary Clayton	Public Member
David Rich	Public Member
Matthew Rhodes	Public Member
Frank Veale	Public Member

Others in Attendance:

Mike Gildesgame	DEM
Michele Drury	DEM
Linda Marler	DEM
Peter Weiskel	USGS
Margaret Kearns	Riverways Program
Mike Gootée	West Newbury Water Dept
Jessica Stephens	Neponset River Watershed Association
Ralph Abele	EPA
Richard Lehan	DEP

Agenda Item #1: Executive Director's Report

Gildesgame announced that Smith was not at the meeting because he was at a Natural Resources Council meeting in Tucson. Smith is giving a presentation on water resources for the future. In Smith's absence, Gildesgame will chair the meeting and will not be giving an Executive Director's report. Gildesgame did announce that the new Secretary of EOEA was Ellen Roy Herzfelder, who comes to state government from the private sector, including the energy industry. The new administration is familiarizing itself with the agencies.

Marler provided an update on the hydrologic conditions:

- There is good news. Conditions are improving statewide. Above normal rainfall, over five inches, fell in December. Every region in the state had over 100% of normal precipitation. There has been some snow. Coastal areas received above 10 inches of snow, during the most recent storm, and over 20 inches of snow was received in the western part of the state. There has not been any substantial snow in the southeast or on Cape Cod. More snow is expected.

- The Drought Management Task Force met on December 18th, and decided to eliminate the drought state-wide, with the exception of Cape Cod, which remains in an advisory. This is because the water table, as of that date, had not reached normal level on Cape Cod. Currently, the ground water levels have come back to above normal. It is expected that the next time the Drought Management Task Force meets, the drought advisory for the Cape will be lifted.
- Surface water runoff is also at the normal to above normal range state-wide. Since about December 15th, the streamflow has been above normal.
- Water supply reservoirs have also come back up. They hit a low for the season in November, but have made steady improvement since then. Most are back to normal for this time of year. Some are at above normal levels. Among those still below normal are Worcester, Quabbin, and Cobble Mountain. These are large capacity reservoirs, so it will take awhile for them to fill up. The snow pack on the ground now will help, in terms of recharging the reservoirs.
- There is a potential for rain or snow in the next week. To date, we've had above normal precipitation for January; the forecasts for the next few months show equal chances for temperature and rainfall to be normal, above normal or below normal. There is not a strong El Niño signal at present, on which to base a long-term forecast.
- Cumulative precipitation dating back to October 2001, which was the start of these drought conditions, show that observed precipitation has been below expected (normal). Right now precipitation is at 91% of normal, so we are close to coming out of the drought conditions. Another month or two of good rainfall should fully restore the deficit.

Agenda Item #2: Vote – Meeting Minutes for May 10, 2001 and June 14, 2001

A motion to approve the minutes of May 10, 2001 and June 14, 2001 was made by Rich and seconded by Butler. The vote was seven in favor, with three abstentions.

Agenda Item #3: Vote – Revised Water Needs Forecasts for West Newbury

Drury acknowledged West Newbury's representatives and recapped last month's discussion. West Newbury's water supply sources are located in the Merrimack River basin. The town has land area in the Merrimack and Parker River basins. Water needs forecasts were originally developed in 1994. West Newbury grew faster than had been predicted by the US Census Bureau and the regional planning agency. The area of town that is served by public water supply is the area that has grown. West Newbury expects that service area will not grow too much, but that it will serve 76% of town by the end of the planning period. In 1997, West Newbury was using more water than we had predicted would be used in 2015, in spite of having a good water conservation program.

Clayton asked if there were any concerns with the Town's water conservation program. Drury replied that a drought plan was needed, but this will be a requirement of the Water Management Act permit. The town has a very good water conservation plan.

V O T E	Contreas moved with a second by Butler to approve the revised water needs forecasts for West Newbury. The motion was approved unanimously
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Agenda Item #5: Vote - 2003 WRC Work Plan (Taken out of turn)

Gildesgame stated that a timeline for the work plan items has been added. Otherwise it was the same as the plan presented last month.

- Water Assets: a contractor should be hired soon. Some initial results will be due by May.
- Streamflow policy: the first meeting of the work group will be in February, with a presentation to the WRC in September
- IBT guidebook update: the final version should be approved in March. Staff have been working on changes to the regulations and hope to present these in the spring.
- Update of the Ipswich River Basin Plan: a draft addendum is due this spring; a revised plan is scheduled for September
- Update on ecosystem restoration efforts will be presented in March
- Stressed basins: target fish and water quality information will be added. A presentation should be made to the WRC in June.
- Other activities will include IBT reviews, prioritizing ACOE projects and water needs forecasts approval.

V O T E	Clayton moved with a second to approve the work plan, with the understanding that it would be reviewed on at least a quarterly basis.
	The motion was approved unanimously

Haas stated that there were a lot of items on the work plan, many of them very important. As state agencies go through the next year with uncertain staffing levels and financial resources, the WRC is encouraged not to lose sight of the water assets project. Water assets should be a priority for this Commission. Butler asked if there were any projects from last year that hadn't gotten completed. Drury said that the IBT guidebook was on last year's work plan and should be completed soon.

Agenda Item #4: Vote – Proposed Changes to Surface Water Permitting Rules

Lehan recapped last month's presentation. The primary focus of the revised regulations was to authorize DEP to jointly implement, with EPA, the Phase II storm water rule for small municipal separate storm sewer systems (MS4s). After review of public comments, DEP has made an additional revision. Lehan distributed copies of this new language and stated that this lists storm water discharges that are categorically required to obtain a permit. DEP received a specific comment requesting that the Department further expand this category. The document clarifies the ambiguity in the draft about which types of discharges must obtain a permit. It also says that DEP has an alternative to require certain types of discharges, not categorically included, to obtain a permit. This final version reflects that MS4s (as defined last month) are required to obtain a permit.

Webber asked if the MS4s were currently required to obtain discharge permits from anyone. Lehan replied that none were required until the promulgation of the federal Phase II requirements. Webber asked if this was an unfunded mandate. Lehan said that DEP had not received any comments concerning this; DEP and EPA have been doing a lot of outreach. Webber asked what environmental gains are expected from this. Haas replied that non-point

source pollution, from storm water in part, is now the greatest source of water pollution. There is a lot to be gained from this program. Because it is a general permit, it does not require many municipal resources to implement. This program is also eligible for State Revolving Fund loans. Contreas added that it could also be funded by enterprise accounts. Webber suggested that the new administration should be briefed on this. Haas stated that before DEP can forward this to EOE, it needs WRC approval. Lehan added that this will clarify things for the regulated community.

V O T E	Haas moved with a second by Clayton to approve the proposed changes to the surface water permitting rules
	The motion was approved unanimously

Agenda Item #6: Presentation – Impacts of budget constraints on DEP FY03 and FY04 Activities

Haas spoke specifically about the constraints on the Bureau of Watershed Permitting. DEP overall has lost 150 people in the past year – the total staff today is less than the 1989 staffing level. The environmental regulations have increased tremendously since 1989. BWSP lost 50 people. This represents a 15% cut from the staffing levels of last year. Of the overall 150 people lost, 40 people were lost to layoffs; 50 to early retirement; and 30 people were reduced through furloughs. In addition, like all State agencies, DEP cannot hire any new staff. Last year, before the budget crisis, DEP initiated an environmental goals process to identify the most important areas for the Department to be involved and to streamline programs. It was determined that an additional 20 FTEs would be needed to accomplish the projects identified in the environmental goals process, but now DEP is faced with having to find 70 FTEs for disinvestment. DEP will focus resources into WMA permit reviews and storm water permitting, but will be disinvesting in the normal discharge permitting conducted with EPA. EPA will continue to do this. DEP has also prioritized the wetlands change project. This is to determine if the right things are being done to protect wetlands. Any project that can be delegated to municipalities, such as Title 5, will be disinvested. DEP also will not be able to provide technical assistance to applicants, although it will be providing technical assistance to Boards of Health and Conservation Commissions. DEP is cutting back on reviewing plans and specifications. This may lead to more enforcement, but we had to look for areas where we could cut back with minimum or no risk to the environment. We expect next year will be worse.

Butler asked if all regional offices were affected equally. Haas replied that retirements fell where they fell and layoffs were done by seniority. There was no targeting of specific regions, nor were the regions affected equally. The Boston office is working with regions to determine if the regions can cover the investments and disinvestments with the resources left to them. Veale asked if the federal government would pick up some of the slack. Haas replied that DEP will keep enforcement on the same level as before. Weiskel asked if DEP would still be involved in large ground water discharge permits. Yes. Veale asked if DEP got any input in the Governor's transition team. Haas was unaware of any input. Clayton asked how are other New England state environmental agencies were handling their budget shortfalls. Haas replied that there are many similarities. One of the challenges is dealing with EPA, which provides federal funds. A

lot still needs to be settled. Only 20% of DEP's budget comes from state taxes. The other portion comes from fees. But when the decision was made to make 10% cuts across the board, DEP's entire budget was cut, not just the portion that comes from taxes.

Agenda Item #7: Presentation – Interbasin Transfer Guide Book update

Gildesgame stated that a vote would be requested in March. Drury said that this is an update of the 1985 guidebook. The 1985 guidebook was published before the WRC had developed guidance on wastewater transfers. The revised guidebook will incorporate the 1987 wastewater guidance approved by the WRC. The performance standards will also be incorporated, as well as the policy on third party standing. There will also be a clarification on the appeal process.

The revised guidebook will have real world examples of transfers, either grandfathered or approved by the WRC. This will be available electronically and in hard copy. In both cases, other application materials, including the Performance Standards, regulations, EIR scopes or other application forms will be available with this guidebook. The electronic copy will have links to these documents so that any proponent would have all the information needed in one place. This will also save on the printing budget. WSCAC provided comments. Their major concern is that the Performance Standards should be part of this and that is fully intended. The Performance Standards were originally part of the draft, but it was eliminated from the final due to cost considerations. The Performance Standards are available in other formats, and as stated, they will be part of any package of information that is distributed to proponents. Drury asked for the WRC's input before the March meeting.

A notice will be put in the Environmental Monitor once the guidebook is available. Haas suggested that he be notified when it is available and DEP will put the notice into the newsletters that are published for water suppliers.

Webber asked if there would ever be a case where a consultant would not be involved with an Interbasin Transfer application. Drury replied that the WRC does not require consultants. It is up to the proponent to determine if one is needed. Staff tries to give as much guidance as possible and is always available for calls and meetings. The proponent is told the types of data needed and how it should be presented. Then it is up to the proponent to determine if they need a consultant or not. Webber suggested that we notify the Massachusetts Municipal Association once the guidebook is available.

Clayton asked if there had been any court cases or adjudicatory hearings that have emerged from this process. Drury replied that there had been two appeals: Brockton, which was remanded back to the WRC, which upheld its original decision, and Canton, which was settled out of court. Clayton said if we had a court case that would help proponents understand the process, it might be helpful to refer to it in the guidebook, but it does not sound as if this is the case. Drury replied that the Performance Standards came out of the Canton settlement.

Meeting adjourned

Meeting minutes approved 10/14/04